

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-03 SS-15 NSC-05 PA-01

PRS-01 H-02 /056 W

----- 087690

P R 111037Z NOV 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 6375

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY PARIS

AMEMBASSY BERN

AMEMBASSY VIENNA

AMEMBASSY MADRID

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E.O. 11652: N/A

TAGS: EAIR, UK

SUBJ: CIVAIR - US/UK AVIATION TALKS - CHARTER ISSUES

1. US/UK TALKS RELATING TO CHARTER ARRANGEMENTS FOR NEXT YEAR CONCLUDED AFTER DAY AND ONE-HALF WITHOUT AGREEMENT. TALKS HUNG UP FAIRLY EARLY IN DISCUSSIONS ON TGC SUBSTITUTIONS, COMMINGLING AND UPLIFT RATIO AND ALTHOUGH TENTATIVE UNDERSTANDINGS REACHED IN SOME OTHER AREAS SUCH AS PRICE SURVEILLANCE AND WAIVERS, TIME DID NOT PERMIT FULL DISCUSSION OF DETAILS ON THESE ISSUES OR RULES OF ORIGIN CONCEPT TO ENQUIRE THAT ALL PROBLEMS IN THESE AREAS HAD BEEN RESOLVED.

2. TGC SUBSTITUTIONS: UK CLAIMED TGC FLIGHTS HAD GROWN ENORMOUSLY IN 1975 AND NOW CONSTITUTED OVER 30 PERCENT OF TOTAL MARKET. SUBSTITUTIONS FROM GENERAL
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PUBLIC COULD THEREFORE NO LONGER BE REGARDED AS INCON-

SEQUENTIAL ELEMENT AND BRITISH URGED THAT SUBSTITUTION BE REDUCED FROM 15 TO 5 PERCENT. U.S. SAID IT COULD NOT CONSIDER CHANGING ITS TGC RULE AND WOULD BE UNWILLING TO ALLOW BRITISH OVERLAY U.S. RULE WITH MORE RESTRICTIVE MEASURE OF THEIR OWN. REDUCTION TO 5 PERCENT SUBSTITUTION WOULD MAKE TGCS VIRTUALLY INOPERABLE. AS PRACTICAL COMPROMISE, USDEL SAID IT WOULD EXAMINE PAST SUMMER TGC OPERATIONS TO DETERMINE EXTENT TO WHICH SUBSTITUTION PROVISION UTILIZED AND CONDUCT SOME SPOT CHECKS OF THESE PAST FLIGHTS TO SEE WHETHER SUBSTITUTION HAD BEEN MISUSED. IF MISUSE APPARENT, ENFORCEMENT BUREAU WOULD LOOK AT WAYS TO TIGHTEN UP SYSTEM TO ENSURE MISUSE WOULD NOT BE A PROBLEM NEXT SEASON. AGAINST THIS BACKGROUND AS COMPROMISE FOR NEXT SEASON, U.S. WOULD AGREE TO SUPPLY UK WITH SUBSTITUTION INFORMATION ON REGULAR BASIS AND AGREE TO CONSULT IF IT BECAME A PROBLEM DURING TERM OF AGREEMENT PROVIDED UK DID NOT INSIST ON LIMITING TGC SUBSTITUTIONS ON A PRIORI AND UNILATERAL BASIS. UK SAID IT WOULD NEED REPORT ON WHAT U.S. EXAMINATION TURNED UP AND WHAT ENFORCEMENT PROCEDURES MIGHT BE EMPLOYED BEFORE IT COULD JUDGE WHETHER THIS COULD BE WAY AROUND PROBLEM. THEY SAID THIS REPORT WOULD BE MOST EFFECTIVE IF IT COULD BE SUPPLIED PRIOR TO ECAC NOVEMBER 18 MEETING BUT WE SAID WE COULD NOT COMMIT OURSELVES TO ANY PRECISE TIMETABLE.

3. COMMINGLING. UK SAID IT VIEWED COMMINGLING AS PRIMARILY AN ENFORCEMENT PROBLEM AND WISHED TO LIMIT COMMINGLING TO THREE CHARTER CATEGORIES. AFTER SOME DEBATE ON WHETHER IT AN ENFORCEMENT QUESTION OR A MATTER OF LIMITING CHARTERING OPPORTUNITIES, U.S. PROPOSED THAT IF UK WOULD REMOVE LIMIT ON COMMINGLING WE WOULD AGREE THAT FOR THOSE CHARTER TYPES THAT DO NOT REQUIRE A PRE-LIST AS A FEATURE OF CHARTERWORTHINESS, A PRE-LIST MIGHT BE SUPPLIED IN TIME TO BE IN HANDS OF ENFORCEMENT OFFICIALS IN UK BEFORE FLIGHT TAKES PLACE. UK SAID IT WOULD STUDY THIS PROPOSAL. (AT EARLY STAGE IN DISCUSSION UK STATED IT WOULD AGAIN INSIST THAT AFFINITY CHARTERS BE SUBJECT TO 30-DAY PRE-LISTING.)

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4. UPLIFT RATIO: UK SAID IT WOULD NOT SIGN ANY CHARTER AGREEMENT UNLESS UPLIFT RATION WAS REMOVED. U.S. SIDE MAINTAINED THIS WAS A TRAFFIC RIGHTS ISSUE THAT COULD ONLY BE NEGOTIATED IN CONTEXT OF FULL-SCALE BILATERAL AGREEMENT ON CHARTERS. IN THIS CONNECTION, WE SAID U.S. ONLY SEEKING A CONTINUATION OF PRESENT CHARTERWORTHINESS AGREEMENTS WITH MODEST EXPANSION TO COVER CHARTER TYPES OTHER THAN "ADVANCE CHARTERS". U.S. REGARDED THIS AS

SMALL STEP TOWARD HARMONIZATION BUT WAS FINDING AMONG
ECAC STATES THAT NO PROGRESS POSSIBLE AND EVEN EXISTING
ARRANGEMENTS IN JEOPARDY BECAUSE ECAC WAS INSISTING
UPON ELIMINATION OF UPLIFT RATIO. ECAC INSISTENCE ON
THIS AS WELL AS OTHER FEATURES OF ITS RULES ADOPTED UNDER
GUISE OF "MAIN PRINCIPLES" FRUSTRATED OUR ATTEMPTS TO
CONCLUDE BILATERALS AND THEREFORE CALLED SERIOUSLY INTO
QUESTION WHETHER ECAC WAS HONORING ITS PART OF THE 1974

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OTTOWA COMPROMISE. THIS WAS DEBATED AT SOME LENGTH
WITHOUT RESOLUTION. UK FINALLY PROPOSED THAT U.S. AND
UK MIGHT AGREE THAT DURING TERM OF AGREEMENT NEITHER
SIDE WOULD EXERCISE CONTROLS WHICH EACH WOULD RETAIN,
I.E., UK WOULD CONTINUE TO REQUIRE PRIOR APPROVAL ON

ALL CHARTER FLIGHTS BUT APPROVE ROUTINELY WHEREAS U.S.
WOULD RETAIN UPLIFT RATIO BUT NOT IMPLEMENT IT. U.S.
SAID IT NOT PPEPARED TO GO THAT FAR AT THIS TIME.

5. ON OTHER ISSUES: UK SAID IT WOULD NOT AGREE TO AN
UNDERSTANDING EXCEEDING ONE YEAR'S DURATION; PRICING
INFORMATION WMULD BE SUBMITTED AT TIME OF CARRIERS'
APPLICATIONS AND ALTHOUGH DISCUSSION DID NOT GET TO
THIS POINT, WE ASSUME THAT BRITISH WERE ANTICIPATING A
PRIOR CONSULTATION REQUIREMENT BEFORE ANY UNILATERAL
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ACTION TAKEN ON PRICING; WAIVERS FROM EXISTING RULES
WOULD BE GIVEN "SYMPATHETIC CONSIDERATION"; MINIMUM
GROUP SIZE WILL NOT BE A PROBLEM BUT ECAC MOU WILL HAVE
TO BE MODIFIED.

6. WE WILL SUPPLY SOME FURTHER THOUGHTS ON UPLIFT RATIO
PROBLEM IN SEPTTEL.

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